May 17, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Ave NW
Washington, DC 20201

Submitted electronically to www.regulations.gov

Re: Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services [RIN 0937–AA11]

Dear Secretary Becerra:

On behalf of the American Nurses Association (ANA), I am pleased to comment on the proposed rule Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services. The proposed rule would return administration of the Title X family planning program, with some modifications, to the status of the program prior to the 2019 final rule. The proposed rule would readopt regulations promulgated in 2000, with changes to strengthen access to Title X services.

ANA supports the overall direction of the proposed rule, and respectfully recommends revisions in the final rule to clarify a strong role for nurses in providing Title X care and expanding service delivery capacity which was lost under implementation of the 2019 rule.[1] Specifically, the final rule should 1) Readopt the 2000 rule with proposed modifications; 2) Specify nurses' roles in providing Title X care; and 3) Specify that qualified APRNs may direct provision of Title X services.

1. **ANA Supports Readoption of the 2000 Rule with Proposed Modifications**

ANA opposed the 2019 rule on a number of grounds. Principally, core provisions of the 2019 rules are inconsistent with ethical and moral principles of the nursing profession and undermine nurses' obligation to provide patient-centered care, including complete and accurate information about their patients' health care options so they may make meaningful, informed decisions about their health. Nursing ethics require nurses to respect the health care decisions of their patients, including women exercising their options regarding family planning and pregnancy. The Code of Ethics for Nurses recognizes patients' rights to self-determination and calls upon nurses to respect the decisions of an individual under their care.

[1] Overall, as the proposed rule notes, the Title X program lost more than 1,000 health centers following implementation of the 2019 rule. 86 F.R. 19812, 19815.

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> Patients have the moral and legal right to determine what will be done with and to their own person; to be given accurate, complete, and understandable information in a manner that facilitates an informed decision; and to be assisted with weighing the benefits, burdens, and available options in their treatment, including the choice of no treatment.[2]

Provision 2 of the Code of Ethics also holds that a nurse's primary commitment is to the patient.

ANA thanks the Department of Health and Human Services (HHS) for moving toward restoring Title X rules that do not interfere with nurses' relationships with their patients in providing informed quality care.

2. ANA Recommends Changes to the Proposed Rule to Specify Nurses' Roles in Providing Title X Care.

ANA appreciates HHS' intent in the language of 42 CFR §59.5(b)(1) to "acknowledge that consultation for medical services related to family planning can be provided by healthcare providers beyond the
physician" and such services may also be by other healthcare providers, including physician assistants and nurse practitioners."[3] However, we believe that even this expanded definition of healthcare provider is unnecessarily narrow. The role of nurse practitioner (NP) is one of four APRN roles, which also include Certified Nurse Midwives (CNMs), Clinical Nurse Specialists (CSNs), and Certified Registered Nurse Anesthetists (CRNA).[4]

All APRNs have advanced training and are educationally prepared to provide a scope of services across the health wellness-illness continuum to at least one population focus as defined by nationally recognized role and population-focused competencies; however, the emphasis and implementation within each APRN role varies. The services or care provided by APRNs is not defined or limited by setting but rather by patient care needs.[5]

All APRN roles practice under the authority of individual state licensure and scope of practice rules, which vary greatly from state to state.[6] We believe that Title X grantees are in the best position to determine which APRNs in a given state have appropriate practice authority to provide Title X services, including consultation for medical services related to family planning.

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[2] ANA Code of Ethics, Provision 1.4.
[3] 86 F.R. 19812, 19820.
[4] The Consensus Model for APRN Regulation defines four APRN roles: certified nurse practitioner, clinical nurse specialist, certified nurse-midwife and certified registered nurse anesthetist. In addition to defining the four roles, the Consensus Model describes the APRN regulatory model, identifies the titles to be used, defines specialty, describes the emergence of new roles and population foci, and presents strategies for implementation.
[5] APRN Consensus Work Group & the National Council of State Boards of Nursing APRN Advisory Committee. Consensus Model for APRN Regulation: Licensure, Accreditation, Certification & Education. July 2008. Accessible online at https://www.nursingworld.org/certification/aprn-consensus-model/
[6] Ibid.

We urge HHS to adopt "APRN practicing to the extent of state practice authority" as a more inclusive term in the final rule for healthcare provider beyond the physician (§59.5(b)(1)). We further ask HHS to consider registered nurse (RN) roles and expertise and clarify the appropriateness of RN practice in provision of Title X services, especially in areas of provider shortage. As recently reaffirmed by the National Academy of Science, Engineering and Medicine, removing nurse practice barriers "will increase the types and amount of high-quality health care services that can be provided to those with complex health and social needs and improve both access to care and health equity."[7]

3. **ANA Recommends Changes to the Proposed Rule to Specify that Qualified APRNs May Direct Provision of Title X Care**.

As noted above, APRNs have advanced training and education, and are prepared to provide care across the health-wellness continuum. Many Title X services are well within the scope of APRN education, training, and practice. While state licensure rules vary, many states have granted full practice authority to APRNs, enabling independent practice. For example, 27 states permit CNMs to practice independently.[8] In addition, 23 states and the District of Columbia grant full practice authority to NPs.[9]
Expansions of nonphysician practice authority, including APRNs, have been cited as a strategy for meeting the health care needs of patients in rural and underserved areas.[10]

Yet the proposed rule would require Title X grantees to engage a physician to direct family planning services. (§59.5(b)(8)). In more than half the states, this additional federal requirement unnecessarily limits grantees' options when engaging practitioners with authority to direct Title X care.

We urge HHS to amend §59.5(b)(8) in the final rule to permit APRNs to direct Title X services, subject to their state practice authority.

ANA is the premier organization representing the interests of the nation's 4.2 million registered nurses (RNs) through its state and constituent member associations, organizational affiliates, and the individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on healthcare issues that affect nurses and the public. RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care, and provide advice

[7] National Academies of Sciences, Engineering, and Medicine 2021. The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity. May 2021. Accessible online at https://doi.org/10.17226/25982.
[8] See https://campaignforaction.org/resource/state-practice-environment-certified-nurse-midwives/
[9] See https://www.aanp.org/advocacy/state/state-practice-environment
[10] See National Conference of State Legislatures. Improving Access to Care in Rural and Underserved Communities: State Workforce Strategies. 2017. Accessible online at https://www.ncsl.org/research/health/improving-access-to-care-in-rural-and-underserved-communities-state-workforce-strategies.aspx

and emotional support to patients and their family members. ANA members also include the four APRN roles. ANA is dedicated to partnering with health care consumers to improve practice, policies, delivery models, outcomes, and access across the health care continuum.[11]

If you have any questions, please contact Brooke Trainum, Director of Policy and Regulatory Advocacy, at Brooke.Trainum@ana.org or (301) 628-5027.

Sincerely,

Debbie Hatmaker

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Chief Nursing Officer/EVP

cc: Ernest Grant, PhD, RN, FAAN, ANA President
Loressa Cole, DNP, MBA, RN, NEA-BC, FACHE, FAAN, ANA Chief Executive Officer

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